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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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10 Carol Lucarelli, et al.,)
11 Plaintiffs,) No. CV-08-8007-PCT-PGR
12 vs.)
13 TRC Four Corners Dialysis Clinics,) ORDER
14 LLC, et al.,)
Defendants.)

15 In an order entered on April 16, 2008 (doc. #42), the Court ordered the
16 defendants to file an amended notice of removal that properly alleged the
17 existence of diversity of citizenship jurisdiction. The order required in part that the
18 defendants specifically set forth the citizenship of each member of the defendant
19 limited liability company. Having reviewed the defendants' Amended Notice of
20 Removal (doc. #43), filed May 8, 2008, the Court finds that the defendants have
21 still not met their burden of properly alleging diversity jurisdiction.

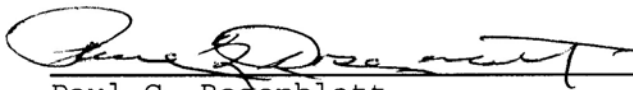
22 The problem is that the jurisdictional allegation regarding Mark Bevan, MD,
23 one of the two members of the defendant limited liability company, is facially
24 deficient in that it merely states that he is "an individual residing in Farmington,
25 New Mexico." It is black letter law that allegations of residency do not suffice for
26 purposes of § 1332. See Steigleder v. McQuesten, 198 U.S. 141, 143, 25 S.Ct.

1 616, 617 (1905) ("It has long been settled that residence and citizenship [are]
2 wholly different things within the meaning of the Constitution and the laws
3 defining and regulating the jurisdiction of the ... courts of the United States; and
4 that a mere averment of residence in a particular state is not an averment of
5 citizenship in that state for the purpose of jurisdiction."); *accord*, Kanter v.
6 Warner-Lambert Co., 265 F.3d 853, 857-58 (9th Cir. 2001) (Plaintiffs' complaint ...
7 state[s] that Plaintiffs were 'residents' of California. But the diversity jurisdiction
8 statute, 28 U.S.C. § 1332, speaks of citizenship, not of residency. ... [The] failure
9 to specify Plaintiffs' state of citizenship was fatal to [the] assertion of diversity
10 jurisdiction.")

11 In order to cure this pleading deficiency, the Court will require the
12 defendants to file an addendum to their Amended Notice of Removal that
13 specifically, and properly, sets forth Dr. Bevan's citizenship.¹ The defendants are
14 advised that their failure to timely comply with this order shall result in the remand
15 of this action without further notice for lack of subject matter jurisdiction.

16 IT IS THEREFORE ORDERED that the defendants shall file an addendum
17 to their Amended Notice of Removal that properly sets forth the citizenship of
18 Mark Bevan, MD no later than May 19, 2008.

19 DATED this 12th day of May, 2008.

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22 Paul G. Rosenblatt
23 United States District Judge
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The parties are advised that the total capitalization of the parties' names
in the caption of any document filed with the Court violates LRCiv 7.1(a)(3).